

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Case. No. 23-CR-7 (DSD/JFD)

Plaintiff,

v.

ORDER

River William Smith,

Defendant.

This case is before the undersigned United States Magistrate Judge on the non-dispositive pretrial motions filed by Defendant River William Smith (Dkt. No. 44, 45) and the United States (Dkt. No. 29). The Court held a motion hearing on March 27, 2023. (Hr’g Mins., Dkt. No. 49.) Jordan Kushner, Esq. represented Mr. Smith and Assistant United States Attorney Manda Sertich represented the United States. (*Id.*) This case has been referred to the undersigned for resolution of pretrial matters pursuant to 28 U.S.C. § 636 and District of Minnesota Local Rule 72.1.

ORDER

Based on the arguments of counsel, and on all the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. The motion of the United States for Discovery Pursuant to Federal Rules of Criminal Procedure 16(b), 12.1, 12.2, 12.3 and 26.2 (Dkt. No. 29), which is unopposed, is **GRANTED**. Mr. Smith shall comply with Federal Rule of Criminal Procedure 16(b) and (c). Mr. Smith shall also comply with the Federal Rules of Criminal

Procedure requiring advance notice of certain affirmative defenses: Alibi (Rule 12.1), Insanity/Mental Illness (Rule 12.2), and Public Authority (Rule 12.3).

2. Mr. Smith's Motion for Early Disclosure of Jencks Act Material (Dkt. No. 45) is **DENIED**. The Court does not have authority to order disclosure of the statements of prosecution witnesses before the conclusion of the witness's direct examination. 18 U.S.C. § 3500. "Although in many cases the government freely discloses Jencks Act material to the defense in advance of trial, . . . the government may not be required to do so." *United States v. Wilson*, 102 F.3d 968, 971–72 (8th Cir. 1996) (quoting *United States v. White*, 750 F.2d 726, 729 (8th Cir. 1984)). To avoid a delay during the trial or during any hearing, the Court urges the parties to exchange witness statements no later than 21 days before the trial or hearing where the witness will testify.
3. Mr. Smith's Motion for Disclosure of Informants (Dkt. No. 44) requests that the Court order the United States to disclose the identity of any informants involved in this case as well as "copies of reports and detailed summaries of all information provided by said informant(s) to agents involved in this case, all communications between the informants and agents . . . the prior criminal convictions of such informants(s), and all files maintained by the government and its agencies regarding the informants." (Def.'s Mot. Compel Disclosure Informants 1, Dkt. No. 44.) The Court anticipated addressing this non-dispositive motion with the other non-dispositive motions above. However, counsel for Mr. Smith addressed the motion in his brief on the pending dispositive motions in this case. (Def.'s Post-Hr'g Mem.

12, Dkt. No. 55.) To give the United States the opportunity to reply in its own brief, the Court will **DEFER** ruling on this motion until it has received the brief of the United States, which is due on April 26, 2023. (Dkt. No. 54.) After reviewing the brief of the United States, the Court will rule on the motion.

Date: April 18, 2023

s/ John F. Docherty
JOHN F. DOCHERTY
United States Magistrate Judge